

**REMARKS**

This Amendment and Request for Reconsideration is submitted in response to an outstanding Office Action dated August 8, 2003, the shortened statutory period for response having expired on November 8, 2003. Accordingly, a Petition and Fee for Extension of time are included herewith.

I. Status of the Claims

Please amend claims 1, 18, 19, 20, 21, and 22, and add new claims 23-115 as indicated above. Claims 1-115 are now pending in the application. Claims 1, 18, 19, 20, 21, 22 and 24 are independent claims. New independent claim 24 corresponds generally to method claim 1, now drafted in means plus function format. New claims 25-115 depend from original claims 18-22 and correspond generally to original dependent claims 2-17.

Applicants acknowledge the Examiner's citation of statutory authority as a basis for claim rejections.

II. Rejections under 35 U.S.C. § 112, first paragraph

The Examiner has rejected claims 1-17 and 20-22 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner states that the “claims cite the limitation ‘determining a debt concentration threshold’ but there is no description in the specification of how the debt concentration is determined in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected to, to make and/or use the invention.”

Applicant respectfully traverses the rejection. In FIG. 2 of the application, step 202 illustrates “determine debt concentration threshold.” Also in FIG. 2, step 216 illustrates “determine new debt concentration threshold.” Similarly, in FIG. 3 of the application, step 304

also illustrates “determine debt concentration threshold.”

In a non-limiting example, at paragraph [0019], the specification states (emphasis added):

Referring first to FIG. 2, at step 202, a debt concentration threshold is determined. In most cases, the threshold is a percentage, although it could be a number of shares, or a dollar amount. The threshold level is set sufficiently high so that the concentration of debt holdings of most investors will not reach and cross the threshold, but also sufficiently low that it prevents individual investors, or groups of investors from gaining sufficient leverage to significantly affect operations of the company. The decision on where to set the threshold will consider the diversity of the investor group holding similar debt instruments. For some instruments, a lower threshold may be more appropriate, while other instruments will find a higher threshold more appropriate.

Other paragraphs in the specification also describe the process of determining a debt concentration, and Applicants submit that when read in the entirety, the specification provides sufficient description on how the debt concentration threshold is determined in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, so as to make and/or use the invention. Accordingly, the applicant respectfully requests that the Examiner withdraw this rejection.

### III. Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 1-22 under 35 U.S.C. § 103(a) as being unpatentable over King (U.S. Patent No. 6,148,293). The Examiner acknowledges that King fails to “explicitly teach the steps of determining a debt concentration threshold and the condition when an entity holds more debt instruments than the debt concentration threshold.” The Examiner takes official notice that the steps of determining a debt concentration threshold and the condition when an entity holds more debt instruments than the debt concentration threshold is

old and well know in the art. The Examiner states that “when all secured debt of a business is held by one entity and the debt covenant may specify that all additional debt against the collateral will be subordinate to the debt currently held by the entity. Such specification can apply to currently held debt and/or future debt. The debt held by the entity would then in effect be the debt concentration threshold. Changing the threshold can be negotiated between the lender and the borrower.”

The applicant has amended the claims to more clearly describe the claimed invention. Claims 1, 18 and 19 recite the steps of: determining a debt concentration threshold; associating a condition with a debt instrument, the condition changing at least one parameter of the debt instrument, the condition available when an entity holds more debt instruments than the debt concentration threshold; and providing one or more company representatives with unilateral authority to implement the condition and change a parameter of the debt instrument. Claims 20, 21, 22 and 24 claim software code and means to perform the recited steps.

The Examiner states that the art discloses changes that are negotiated between the lender and the borrower. In the claims, one or more company representatives are provided with unilateral authority to implement the condition and change a parameter of the debt instrument. A negotiated change between the lender and the borrower does not disclose, teach or suggest providing one or more company representatives with unilateral authority to implement a condition and change a parameter of the debt instrument.

The applicant respectfully submits that the claims are allowable over the cited art and request withdrawal of the rejection and allowance of the pending claims.

IV. Request for Reconsideration

Applicants respectfully submit that the claims of this application are in condition for allowance. Accordingly, reconsideration of the rejection and allowance is requested. If a conference would assist in placing this application in better condition for allowance, the undersigned would appreciate a telephone call at the number indicated.

Respectfully submitted,  
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